

***FeatureGroup IP\****

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Embarq Local Operating Companies

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RE: WC Docket No. 07-256, *FeatureGroup IP Petition For Forbearance From Section 251(g) of the Communications Act and Sections 51.701(b)(1) and 69.5(b) Of The Commission's Rules*; WC Docket No. 08-8, *Embarq Local Operating Companies Petition for Limited Forbearance Under 47 U.S.C. § 160(c) from Enforcement of Rule 69.5(a), 47 U.S.C. § 251(b), and Commission Orders on the ESP Exemption*; and CC Docket No. 01-92, *Developing a Unified Intercarrier Compensation Regime*

Dear Messrs Lanning, Bartlett and Benedict:

I have studied with great interest your petition to the FCC seeking forbearance from application of the ESP exemption for certain VoIP traffic interconnecting with the public switched telephone network. I suspect that you have also studied with similar interest the Feature Group IP Forbearance Petition.

I write to you today because I think there is not as great a divide between our respective positions as some might surmise. With this attitude, I invite Embarq to engage in good-faith discussions over the issues raised by FeatureGroup IP's and Embarq's forbearance requests, as well as some of the issues before the FCC in various parts of Docket 01-92, with an eye towards pioneering a better method of IP-PSTN interconnection in a manner that creates a win-win for our respective businesses, for our respective customers and for America.

The arguments raised in the Feature Group IP Petition and the Embarq Petition may be viewed as distinct issues and are not necessarily mutually exclusive, and, if we understood our respective needs, we might actually be able to develop forward-looking IP-PSTN interconnection principles. The Feature Group IP Petition speaks to enabling *new* Internet-based technologies, applications and services, while the Embarq Petition is focused on preservation

**"FeatureGroup IP" is the trade name for each of a set of affiliated companies individually known as FeatureGroup IP North LLC, FeatureGroup IP Southeast LLC, FeatureGroup IP Southwest LLC, FeatureGroup IP West LLC and UTEX Communications Corp. d/b/a FeatureGroup IP**

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of *legacy* telecom business model issues. I understand your concerns about preserving existing revenue flows to Embarq for traditional communications. Admittedly, the Internet-enabled future can be an uncertain frontier, disrupting existing businesses and revenue models, but it also presents wonderful opportunities for our respective businesses, for our customers, and for our country. I trust you can appreciate my view that Internet communications that transform the ways in which Americans (including your customers) communicate and interact should not be stifled by legacy rules written for a bygone analog era.

All users of both new and old technology can benefit from the network effects created by interconnecting and interoperating the Internet and the PSTN in the most technologically and economically efficient manner. Frankly, I think we have an immediate and profound opportunity to resolve our technical and financial disagreements over Internet/PSTN interconnection and interoperability in a way that maximizes the value for all of our customers.

We, however, need to understand our respective points of view and needs. To be entirely candid, the piece I cannot get my mind around in your pleadings is that Embarq does not seem to acknowledge that the PSTN can also derive value from the complementary aspects of VoIP and that your own customers benefit from being able to communicate with voice-enabled IP application users. I would like to discuss this viewpoint with you to see if I can better understand your perspective and to determine whether we might find common ground.

I am convinced that, going forward, we simply need to treat all Internet traffic the same under a reciprocal compensation scheme, regardless of the “direction” of the communication and without distinctions based on real or perceived end-points. If you disagree, please tell me why that is not a fair and logical and mutually beneficial result. The simple and first step toward this forward-looking goal would be for Embarq to load and route our non-geographic numbers under a reciprocal compensation arrangement for the mutual exchange of traffic. We are open to negotiate the actual rate but I suggest that we start at the ISP Reciprocal Compensation rate of \$.0007. If you would rather have a rate closer to the current access rate that would be fine with me, but the rate must be reciprocal in that if we or our customers pay you for termination then you must pay us if the call originates on your network. If we were to pursue this path, your customers could immediately enjoy the benefits that only Internet technology brings.

More broadly, there are some universal principles that I think should logically apply to ensure clear and fair rules governing the interconnection of networks, including IP networks connecting to and from the narrowband PSTN. I would like to propose that Embarq consider whether the following outline setting

forth some principles of interconnection is along the lines of something that Embarq might consider a viable means of interconnection. If these are principles that are not too antithetical to your goals (or, at least, present a framework for discussion), then I would love the opportunity to engage in meaningful dialogue with Embarq. We have the opportunity to become the pioneers for the new model of interconnection for the Internet Age.

Principles of Interconnection:

- 1) There should be symmetry in any interconnection scheme. The goal should be to encourage and promote two-way traffic, or at least, not to encourage business models that favor one-way traffic delivery based on the current complicated and inconsistent inter-provider compensation schemes.
- 2) Any interconnection scheme should be cost-based to discourage the ability to arbitrage new technology or to increase the cost of market entry by new technology providers or users. The scheme should encourage the least-cost method of interconnection, should remove incentives for any entity to promote non-cost based methods of interconnection, and all parties should be encouraged to search for the best, most efficient, most economically and most technologically advantageous interface. Any method of interconnection should promote the smallest transaction cost. In a world where traffic flows equally to and from networks and where traffic-sensitive costs are approaching zero, providers do not really need to count minutes any more.
- 3) Interconnection principles should not favor one technology over another. That is to say, there should be no favoritism based upon application (*e.g.*, voice, chat, text, IM, email, video). In a digital world, all applications are or should be equal. To discriminate among applications would adversely skew the policy principles encouraging convergence.
- 4) Interconnection principles should not favor one affiliation or one type of provider over another in order to avoid and predatory cross-subsidy.
- 5) Interconnection should support modern public policy goals including
  - a. promotion of network effects;
  - b. creation of group forming networks;
  - c. encouragement of user choice of technology, providers and applications;
  - d. user control over their own communications experience to the fullest extent possible; and
  - e. promotion of open network concepts that enable and welcome technological and social improvements regardless of source.
- 6) Interconnection should support historical public policy goals while subsidies move from application to network support.

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- a. Internet-based communications, if allowed to evolve and serve users without subjugation to legacy access charge rules, could dramatically ease the burden on the Universal Service Fund (VoIP could be a near free alternative for traditional voice telephony if we allow it);
- b. current ILEC distribution of voice is economically 10 to 15 times more expensive to provide when compared to IP and Mobile voice;
- c. IP and Mobile voice have more benefits to those USF is supposed to help;
- d. allowing alternative providers of USF allows investment in new technology;
- e. now that costs to provide service are dramatically lower, prohibit over earning by any recipient of USF; and
- f. prohibit distribution of USF to any entity or affiliated entity that does not also explicitly support Modern Public Policy Goals (*e.g.*, if a telco blocks VoIP or other Internet traffic, that telco cannot receive a subsidy).

Surely we can at least agree that it is important for the telecom and Internet industries to develop an interconnection regime that creates a mutually virtuous cycle for the carrier, for the application provider, for the consumer and for society-at-large. I see no reason we cannot also agree that any arrangement should ultimately reflect legitimate costs and be reciprocal in nature.

I'm sure we all long for the day when we may maximize the power of the Internet to enhance the nature and value of communications for our customers and for all Americans. I, however, fear that America will slip further down in the ranks of nations harnessing the Internet and advanced communications as a tool for business and the social good if incumbents persist in trying to maintain rigid control of their users' available communications choices by even more strongly yoking our society to legacy technologies and business models. We should be evolving our networks so they seamlessly interoperate. Embarq would do its business, its shareholders and its customers a great service if it were to work to ensure that its network could interconnect seamlessly with the Internet rather than trying to get regulators to issue *fiats* requiring the Internet to dumb itself down to the PSTN.

I genuinely wish to negotiate in good faith to see if there is some way that we might reach agreement on the interconnection and interoperation of our networks, including reasonable reciprocal arrangements for traffic exchange.

All Americans, including your customers, should be able to realize what happens when different networks interconnect and interoperate. We and our respective users can all share the value that accrues from the combination of

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Reed's and Metcalf's law, but that can only be achieved when we create a ubiquitous, interoperable and seamlessly interconnected "network of networks" and one network does not preponderate over the others by demanding non-reciprocal, arbitrage-creating, technology-debilitating rents to all others merely so they can all intercommunicate. In an Internet-enabled world, consumers of narrowband PSTN service should not be precluded from fully participating in the digital Internet revolution because of what in my opinion resembles an economic boycott by the cartel of telephone companies that are holding them hostage.

We are probably not as far off as our respective pleadings might suggest. We all are committed to creating the most efficient and functional networks possible and offering our respective customers the best quality and most advanced services possible. I am convinced that if we were to engage in good-faith discussions, we could resolve our interconnection issues and create a model for IP-PSTN connectivity. If we sit down and focus on creating the most viable, most advanced, most functional, most efficient, most cost-effective means of interconnection and the best interests of our customers and to society – rather than purely our own self interest – surely we can come to terms on a process that creates a win-win for all.

Sincerely,

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